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8 MENTE GROUP LLC,
9 Plaintiff,
10 v.
11 ARNELL ENTERPRISES, INC,
12 Defendant.

Case No. [20-cv-07459-VKD](#)

**ORDER RE OCTOBER 20, 2023
DISPUTE RE POST-JUDGMENT
DISCOVERY**

Re: Dkt. No. 66

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14 Plaintiff and counter-defendant Mente Group LLC (“Mente”) moves for an order requiring
15 defendant and counter-claimant Arnell Enterprises, Inc. (“Arnell”) to provide answers to Mente’s
16 post-judgment interrogatories. Dkt. No. 66. The Court finds this dispute suitable for decision
17 without oral argument. Civil L.R. 7-1(b).

18 On January 3, 2022, the Court granted summary judgment for Mente on its breach of
19 contract claim against Arnell. Dkt. No. 46. The Court dismissed the remaining claims as moot on
20 February 11, 2022 and entered judgment in favor of Mente. Dkt. Nos. 50, 51. On September 22,
21 2022, the Court granted Mente’s motion for an award of \$233,627.22 in attorneys’ fees and
22 \$6,127.10 in costs. Dkt. No. 59. Arnell presently owes Mente a total of \$403,902.28, exclusive of
23 interest. *See* Dkt. No. 66 at 1. Arnell has not paid any portion of that amount. *Id.*

24 On June 13, 2023, Mente served interrogatories on Arnell seeking information about
25 transfers of funds out of Arnell’s bank account between January 4, 2021 and January 15, 2023. *Id.*
26 at 2 & Ex. A. Mente explains that it requires this information because a “transaction summary”
27 produced by Arnell indicates that Arnell may have intentionally depleted its bank account in an
28 effort to defeat Mente’s attempts to collect on the judgment. *Id.* at 2. Arnell did not respond to

1 Mente's interrogatories. *Id.* Arnell's counsel advises that he "has been unable [to] obtain the
2 requested information from Arnell . . . and understand[s] that the vast majority of the information
3 is unavailable." *Id.* at 3.

4 Rule 69 of the Federal Rules of Civil Procedure provides that a judgment creditor "may
5 obtain discovery from any person—including the judgment debtor—as provided in these rules or
6 by the procedure of the state where the court is located" in aid of collecting on a judgment. Fed.
7 R. Civ. P. 69(a)(2). Post-judgment discovery may be used to identify assets that can be used to
8 satisfy a judgment or to discover concealed or fraudulently transferred assets. *See Ryan Inv. Corp.*
9 *v. Pedregal de Cabo San Lucas*, No. C 06-3219 JW RS, 2009 WL 5114077, at *1 (N.D. Cal. Dec.
10 18, 2009).

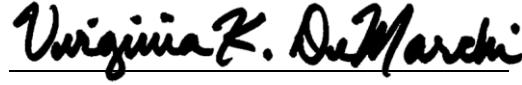
11 Arnell does not dispute that Mente's interrogatories seek information within the scope of
12 proper post-judgment discovery. *See* Dkt. No. 66 at 3. Arnell offers no excuse for failing to
13 timely respond to the interrogatories. *See id.* Moreover, it is not plausible that the "vast majority"
14 of the requested information does not exist within Arnell's possession, custody or control. The
15 interrogatories all concern substantial transfers (equal to or exceeding \$5,000), dating back less
16 than three years, out of a single bank account. *See id.*, Ex. A. In any event, even if Arnell does
17 not have some of the requested information, it had and has an obligation to provide the
18 information it does have. *See* Fed. R. Civ. P. 33(b)(1)(B), (3).

19 Arnell has had over four months to answer Mente's interrogatories. Arnell's counsel
20 protests that he is "engaged in trial in San Francisco until October 26, 2023" and asks for more
21 time to respond. Dkt. No. 66 at 3. However, Arnell does not explain how its counsel's current
22 trial obligation has anything to do with its failure to answer these interrogatories by July 13,
23 2023—the date the answers were due—or at any time in the following months. *See id.*

24 Accordingly, the Court orders Arnell to answer, fully and completely, Mente's post-
25 judgment interrogatories by **October 30, 2023**. Arnell has waived any objections it might
26 otherwise have to the interrogatories because it failed to timely assert them. *See* Fed. R. Civ. P.
27 33(b)(4). The judgment debtor examine shall proceed as scheduled on October 25, 2023 unless
28 the parties stipulate otherwise.

1 **IT IS SO ORDERED.**

2 Dated: October 23, 2023

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5 VIRGINIA K. DEMARCHE
6 United States Magistrate Judge